

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

10/11/2001

CLERK OF THE COURT  
FORM L000

HONORABLE MICHAEL D. JONES

M. Cearfoss  
Deputy

LC 2001-000398

FILED: \_\_\_\_\_

PATSY FREEMAN

DIANA L BRAATEN

v.

STATE OF ARIZONA

WADE J SKALSKY

PHX MUNICIPAL CT  
REMAND DESK CR-CCC

RULING  
REVERSE/REMAND

PHOENIX CITY COURT

Cit. No. 8957008

Charge: INTERFERING WITH JUDICIAL PROCEEDING

DOB: 01-30-1958

DOC: 01-12-2001

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement since oral argument on September 17, 2001. This decision is made within 30 days of

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that date as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. The Court has considered the oral argument of counsel, the record of the proceedings from the Phoenix City Court and the memoranda submitted.

This case involves an appeal by the State of Arizona from an order on June 5, 2001, by Phoenix City Court Judge Malcolm Strohson granting Appellee's Motion to Dismiss. This case also involves an Injunction Against Harassment obtained by Luis Olivas on May 3, 2001, in the Glendale City Court. The Injunction Against Harassment was obtained against Patsy Freeman, Appellee herein. The Injunction Against Harassment also included a provision that prohibited Patsy Freeman from harassing Yolanda Rodriguez. Appellee, Patsy Freeman, filed a Motion to Dismiss the charge of Interfering with Judicial Proceedings, a class 1 misdemeanor, in violation of A.R.S. Section 13-2810(A)(2). The charge was predicated upon telephone calls Appellee made to Yolanda Rodriguez after the Injunction Against Harassment had been served upon Appellee. In her Motion to Suppress, Appellee claimed that the Injunction Against Harassment was void as the Glendale City Court had no jurisdiction to issue the injunction and that the complaint failed to specifically give her notice of the crime with which she was charged. The trial judge failed to state the grounds upon which he granted Appellee's Motion to Dismiss. This Court has concluded, however, that neither issue merits dismissal of the charges against Appellee.

Appellee's first grounds for dismissal concerns the alleged insufficiency of the complaint. However, the complaint itself provides notice of the date the alleged crime occurred, the location, and a specific reference to the statute and title of the crime committed and a reference to the manner in which the crime had been committed. Appellee argues that if she had two Injunctions Against Harassment against her she would have no idea of knowing which one she was accused of violating. Appellee's argument is pure speculation, at best.

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The trial judge also erred if he based his decision to grant Appellee's Motion to Dismiss on the validity of the Glendale City Court's Injunction Against Harassment. A collateral attack on the validity of the Injunction Against Harassment issued by a court of competent jurisdiction should not have been permitted by the trial judge in this case. The Arizona Supreme Court has explained:

It is a settled principal of law that an order issued by a court with jurisdiction over the subject matter must be obeyed by the parties until that order is reversed by orderly and proper proceedings.<sup>1</sup>

The United State's Supreme Court addressed this same issue in a famous case involving the Reverend Dr. Martin Luther King who was convicted of criminal contempt after disobeying an injunction prohibiting Dr. King and other civil rights demonstrators from marching on Easter Sunday in Birmingham, Alabama. The United State Supreme Court stated:

An injunction duly [issued]. . .must be obeyed. . .however erroneous the action of the court may be. . .until its decision is reversed for error by orderly review. . .and disobedience. . .is contempt of its lawful authority, to be punished.<sup>2</sup>

In State v. Chavez<sup>3</sup>, the Arizona Court of Appeals affirmed defendant's conviction for criminal contempt for the deliberate violation of a court order prohibiting massing, assembling, demonstrating, or picketing upon or near certain properties of

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<sup>1</sup> State v. Chavez, 123 Ariz. 538, 540, 601 P.2d 301, 303 (App. 1979).

<sup>2</sup> Walker v. City of Birmingham, 388 U.S. 307, 314, 87 S.Ct. 1824, 1828, 18 L.Ed.2d 1210 (1967), rehearing denied, 389 U.S. 894, 88 S.Ct. 12, 19 L.Ed.2d 202, as cited in State v. Chavez, 123 Ariz. at 543, 601 P.2d at 306.

<sup>3</sup> Id.

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G & S Produce Company. The Appellant, Cesar Chavez, challenged the constitutionality of the injunction which prohibited him and the United Farm Workers' Union from demonstrating and picketing near the property of produce companies against whom the United Farm Workers' Union was striking. Noting that Chavez failed to challenge the injunction itself when it was issued, the Arizona Court of Appeals stated:

In our opinion, the concept that any person, lay or professional, may determine whether a court order is "void on its face" and thus susceptible to being ignored as unconstitutional can find no justification in the law. The application of such a principle would stand the judicial system in this country on its head.<sup>4</sup>

The Court further stated:

When the Appellants here ignored the terms of the injunction, they were placing themselves above the law and presuming to act as judges in their own case. The doors of this Court were open. If they thought the injunction was too broad, they could easily have sought review by appeal or by special action as an alternate remedy to willful disobedience.<sup>5</sup>

In this case the Glendale City Court had subject matter jurisdiction over the Injunction Against Harassment which it issued against Appellee. That Injunction Against Harassment is not subject to collateral attack in a proceeding for interfering with judicial proceedings such as the instant case. Appellee's remedy would be to request a hearing on the Injunction Against

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<sup>4</sup> State v. Chavez, 123 Ariz. at 543, 601 P.2d at 306.

<sup>5</sup> Id.

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Harassment in the Glendale City Court where the injunction was issued.

The trial court erred in granting Appellee's Motion to Dismiss.

IT IS ORDERED reversing the trial court's order granting Appellee's Motion to Dismiss.

IT IS ORDERED remanding this case back to the Phoenix City Court for all future proceedings consistent with this opinion.